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Letter dated 7 April 2000 from the Chargé d'affaires a.i. of the Permanent Mission of Ethiopia to the United Nations addressed to the President of the Security Council

Upon instructions from my Government, I have the honour to transmit herewith a document by the Ministry for Foreign Affairs of the Federal Democratic Republic of Ethiopia, issued on 31 March 2000, entitled "The Present State of the Ethio-Eritrean Conflict".

I should be grateful if you would have the text of the present letter and its annex circulated as a document of the Security Council.

(Signed) Fesseha A. **Tessema**
Chargé d'affaires a.i.

00-38376 (E) 100400

Annex to the letter dated 7 April 2000 from the Chargé d'affaires a.i. of the Permanent Mission of Ethiopia to the United Nations addressed to the President of the Security Council

Almost two years have elapsed since the eruption of the Ethio-Eritrean conflict. As such the international community is by now fully aware of the origin of the conflict. It is not, therefore, necessary to go into detail on the genesis of the conflict. It is an incontrovertible fact that the crisis started with the unprovoked aggression by Eritrea against Ethiopia on 12 May 1998 and the occupation of Ethiopian sovereign territory by Eritrea. This was the culmination of the Eritrean pattern of aggressive behaviour towards its neighbours since its inception as new State. With the exception of the liberation of the biggest chunk of Ethiopian territory — Badme — by the patriotic Ethiopian forces in February 1999 in exercise of Ethiopia's right of legitimate self-defence under international law, enshrined in Article 51 of the Charter of the United Nations, the situation remains unchanged — that is, Eritrean aggression against Ethiopia continues by virtue of the fact there are Ethiopian territories along the entire common border still under Eritrean occupation. In this memorandum we would like to describe briefly by way of recapitulation the current stage in the peace process.

It is to be recalled that right from the outset of the aggression, Ethiopia's response has been to resolve the crisis by peaceful means as long as it is possible and feasible, although we were fully entitled under international law to take immediate forcible action to evict the aggressor from Ethiopian territory. This was the decision of our Parliament and Government.

The peace process was set in motion with the launching in June 1998 of the United States-Rwanda proposal (S/1998/496, annex I), the essence of which was the withdrawal of Eritrean forces from Ethiopian territory, the restoration of the status quo ante and the demarcation of the entire border, in that order. This proposal of the facilitators was endorsed by the Assembly of Heads of State and Government of the Organization of African Unity (OAU) at its thirty-fourth ordinary session, held at Ouagadougou in June 1998 (A/53/179, annex II, decision A-HG/Dec.130 (XXXIV)). Eritrea, not surprisingly, rejected the proposal.

Continuing in its efforts to resolve the crisis peacefully, OAU formulated a Framework Agreement for a peaceful settlement of the dispute between the two countries (S/1998/1223, annex). Again, Eritrea, with the utmost scorn, rejected the proposal. The situation remained unchanged until, in exercise of our right to self-defence, we reversed Eritrea's aggression on the Badme front in February 1999. It was then that Eritrea was forced to announce its so-called "acceptance" of the Framework Agreement. Although its territories were still under Eritrean occupation, Ethiopia persevered along the peaceful path to reverse the aggression in the remaining territories still under Eritrean occupation.

A significant development in the peace process took place in May 1999, when the then Chairman of OAU wrote to the President of Eritrea asking him in clear terms to redeploy his troops out of Ethiopian territories occupied after 6 May 1998.

The next stage in the peace process came with the adoption by the OAU Summit held at Algiers in July 1999 of the Modalities for the Implementation of the OAU Framework Agreement on the Settlement of the Dispute between Ethiopia and Eritrea (S/1999/794, annex III). This instrument reinforced the Framework Agreement by setting forth in no uncertain terms that Eritrea had to withdraw its forces from Ethiopian territories it occupied after 6 May 1998. This document, which was accepted by both sides, in effect clearly reaffirmed the undeniable truth that Eritrea had committed aggression against Ethiopia on 6 May 1998.

If we put in context successive pronouncements made during the peace process relating to the withdrawal of Eritrean forces from Ethiopian territories, they establish without any doubt that Eritrea committed aggression against Ethiopia in May 1998. Thus:

1. The United States-Rwanda proposal which was the first attempt at a peaceful resolution of the conflict (June 1998), stated:

> "Eritrean forces shall begin to redeploy from Badme and environs to the positions held prior to 6 May 1998".

2. The Committee of Ambassadors established by the OAU High-level Delegation for a fact-finding mission said in its report (S/1998/1223, annex) that:

> "With regard to the authority which was administering Badme before 12 May 1998 and on the basis of the information at our disposal, we have reached the conclusion that Badme Town and its environs were administered by the Ethiopian authorities before 12 May 1998".

In the same report, the Committee further stated:

> "It is, nevertheless, of the view that what happened in Badme between 6 and 12 May constitutes a fundamental element of the crisis".

3. The OAU Framework Agreement provided in paragraph 3:

> "In order to create conditions conducive to a comprehensive and lasting settlement of the conflict through the delimitation and demarcation of the border, the armed forces presently in Badme Town and its environs should be redeployed to the positions they held before 6 May 1998".

4. In his letter of 8 May 1999 to the President of Eritrea, President Blaise Campoare of Burkina Faso, then the Chairman of OAU, said:

> "To find a solution to the problems posed to the implementation of the Framework Agreement, I submit to you a solemn appeal, in the name of the OAU and its High-level Delegation, that you accept our proposal that the Eritrean Government agree to redeploy its troops out of Ethiopian territories occupied after 6 May 1998".

5. The Modalities for the implementation of the OAU Framework Agreement, adopted by the OAU summit meeting held at Algiers on 14 July 1999 stated in paragraph 1:

> "The Eritrean Government commits itself to redeploy its forces outside the territories they occupied after 6 May 1998".

The technical details for the implementation of the two basic instruments of the OAU, namely, the Framework Agreement and the Modalities, were set forth in the document entitled "Technical Arrangements for the Implementation of the OAU Framework Agreement and Its Modalities". This document is the last in the hierarchy of OAU documents promoting the peaceful settlement of the dispute between the two countries and, as its title clearly indicates, was intended to provide the technical details for the implementation of the two basic instruments. As such it goes without saying that it has to be fully consistent in all its aspects with the two basic instruments.

But to our deep regret this was not to be because the document contained a number of provisions at variance with the Framework Agreement and the Modalities. This was where the entire peace process hit a snag. The Technical Arrangements were deeply and fatally flawed inasmuch as they contained parts that went against the fundamental principle of the restoration of the status quo ante in all its aspects to 6 May 1999 and the reversal of Eritrean aggression against Ethiopia. As far as Ethiopia is concerned, as a victim of aggression there was no way we could countenance such a situation, for it would have gone against some basic precepts of international law, in particular the non-use force in international relations and the ban on the forcible change of borders. It would also have gone against the decisions of our Parliament and Government taken at the outset of the Eritrean aggression against our country. Hoping that our concerns would be addressed short of a total revision of the Technical Arrangements, we sought clarifications from OAU as the author of the document on a number of provisions of the Technical Arrangements. But regrettably the clarifications we received failed to meet all our concerns adequately.

In pursuit of our sole objective of reversing Eritrean aggression peacefully, we engaged in earnest dialogue with our continental organization, OAU, with a view to rectifying the serious defects and flaws in the Technical Arrangements. Realizing that a take-it-or-leave-it stance on the Technical Arrangements would not advance the peace process, OAU has made a commendable effort to reorient the peace process by taking a fresh look at the Technical Arrangements. As a result, significant progress has been made towards rendering the Technical Arrangements consistent with the Framework Agreement and the Modalities to further their implementation. At this juncture we should like to register the remarkable and indefatigable efforts made by OAU to resolve the crisis between the two countries peacefully. We remain proud of our continental organization.

Nevertheless, the peace process is in trouble again at its most auspicious moment in the last two

years because of the well-known intransigence of the Eritrean regime. At the moment a dark cloud is hovering over the peace process. Rejecting the significant progress achieved in the peace process, Eritrea is playing the most dangerous game of brinksmanship fraught with all its consequences for peace and stability in our subregion. The clearest sign of this belligerent behaviour by the Eritrean regime is its refusal at the last minute to engage in proximity talks to finalize the Technical Arrangements, which were scheduled to start in Algiers on 25 March 2000. Since we in Ethiopia know full well that the idea of returning to the status quo ante is anathema to Eritrea inasmuch as it would definitely mean the reversal of its aggression against Ethiopia, its most recent conduct towards the peace process did not come as a surprise to us. However, since the peace process has reached a promising, albeit critical, stage, we believe it is incumbent upon the international community to prevail upon the Eritrean regime to see the light of reason and to desist from being again a cause for what Ethiopia has always wished to avoid but which Eritrea appears determined to make inevitable. It is well-known that this is not and has never been a border dispute. On the contrary, it is clearly a case of continuing flagrant aggression by one State against another. The aggressor — Ethiopia — is well-known. No amount of subterfuge can hide this stubborn fact. Despite this, the attitude taken by the Security Council, the body entrusted under the Charter of the United Nations with the primary responsibility for maintenance of international peace and security (Article 24), over the past two years since the onset of the crisis has been to put aggressor and victim on the same footing. In doing so it has failed not only the victim of aggression — Ethiopia — but also the rule of law in international relations. For its part, the Ethiopian Government, although still committed to a peaceful resolution of the crisis, has the constitutional duty and responsibility to the Ethiopian people to defend the country's sovereignty, a right recognized under international law. The Ethiopian Government and people are putting this question to the international community: How long is Ethiopia — the victim of aggression — expected to wait before international legality prevails? It is our earnest hope that it is not yet too late for the international community to see to it that the rule of law prevails.

31 March 2000
Addis Ababa